

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

BRIAN A. VANDUSEN

Criminal No. 21-288

INDICTMENT MEMORANDUM

AND NOW comes the United States of America, by its attorneys, Stephen R. Kaufman, Acting United States Attorney for the Western District of Pennsylvania, and Gregory C. Melucci, Assistant United States Attorney for said District, and submits this Indictment Memorandum to the Court:

I. THE INDICTMENT

A federal grand jury returned 15-count Indictment against the above-named defendant for alleged violations of federal law:

<u>COUNT</u>	<u>OFFENSE/DATE</u>	<u>TITLE/SECTION</u>
1-13	Aiding or Assisting in the Preparation or Filing of False Tax Returns From on or about January 13, 2016, to on or about February 8, 2018	26 U.S.C. § 7206(2)
14 and 15	Wire Fraud January 26, 2017 (Count 14) February 8, 2018 (Count 15)	18 U.S.C. § 1343

FILED

JUN 29 2021

JUN 24 2 40 PM '21
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WESTERN DISTRICT OF PENNSYLVANIA
WESTERN DISTRICT OF PENNSYLVANIA

II. ELEMENTS OF THE OFFENSES

A. As to Counts 1 - 13:

In order for the crime of Aiding or Assisting in the Preparation or Filing of False Tax Returns, in violation of 26 U.S.C. § 7206(2), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. The defendant aided or assisted in the preparation and presentation of an income tax return that was false as to a material matter.
2. The defendant knew that the income tax return was false, that is, that the income tax return was untrue when it was made.
3. The defendant acted willfully, that is, with the intent to violate a known legal duty.

Third Circuit Model Criminal Jury Instruction 6.26.7206.

B. As to Counts 14 and 15:

In order for the crime of Wire Fraud, in violation of 18 U.S.C. § 1343, to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant devised a scheme to defraud or to obtain money or property or the intangible right of honest services by materially false or fraudulent pretenses, representations or promises or willfully participated in such a scheme with knowledge of its fraudulent nature;
2. That the defendant acted with the intent to defraud; and
3. That in advancing, furthering, or carrying out the scheme, the defendant transmitted any writing, signal, or sound by means of a wire, radio, or television communication

in interstate commerce or caused the transmission of any writing, signal, or sound of some kind by means of a wire, radio, or television communication in interstate commerce.

Third Circuit Model Criminal Jury Instruction 6.18.1343.

III. PENALTIES

A. As to Counts 1-13: Aiding or Assisting in the Preparation or Filing of False Tax Returns (26 U.S.C. § 7206(2)):

1. A term of imprisonment of not more than three (3) years (26 U.S.C. § 7206(1));
2. A fine of not more than \$250,000 (18 U.S.C. §§ 3571(d) and (e));
3. A term of supervised release of not more than one (1) year (18 U.S.C. § 3583(b)(3));
4. All of the above.

B. As to Counts 14 and 15: Wire Fraud (18 U.S.C. § 1343):

1. Imprisonment for not more than twenty (20) years;
2. A fine not more than the greater of;
 - (a) \$250,000 (18 U.S.C. § 3571(b)(3));
 - or
 - (b) an alternative fine in an amount not more than the greater of twice the gross pecuniary gain to any person or twice the pecuniary loss to any person other than the defendant, unless the imposition of this alternative fine would unduly complicate or prolong the sentencing process (18 U.S.C. § 3571(d));
3. A term of supervised release of not more than three (3) years (18 U.S.C. §§ 3559, 3583);

4. Any or all of the above.

IV. MANDATORY SPECIAL ASSESSMENT

A mandatory special assessment of \$100.00 must be imposed at each count upon which the defendant is convicted, pursuant to 18 U.S.C. § 3013.

V. RESTITUTION

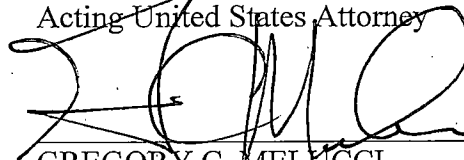
Restitution may be required in this case as to Counts 14 and 15, together with any authorized penalty, as part of the defendant's sentence pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.

VI. FORFEITURE

Not applicable in this case.

Respectfully submitted,

STEPHEN R. KAUFMAN
Acting United States Attorney

A handwritten signature in black ink, appearing to read 'G. Melucci', is written over the printed name of Gregory C. Melucci.

GREGORY C. MELUCCI
Assistant U.S. Attorney
PA ID No. 56777